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EXAMINER

YIGDALL, MICHAEL J

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2192

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/006,692
Filing Date: December 10, 2001
Appellant(s): POPPENG A ET AL.

Steven R. Ormiston
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on December 5, 2005 appealing from the final Office action mailed on May 4, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. This appeal involves claims 15-18 and 20-23.

(4) Status of Amendments After Final

The appellants' statement of the status of amendments after final rejection contained in the brief is correct. The amendment after final rejection filed on July 26, 2005 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellants' statement of the grounds of rejection to be reviewed on appeal is substantially correct. The ground of rejection to be reviewed on appeal is the rejection of claims 15-18 and 20-23 under 35 U.S.C. 102(e).

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Appellants' brief presents arguments relating to the entry of amendments after final rejection. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

Grounds of Rejection Not on Review

The rejection of claims 14, 19 and 24-27 under 35 U.S.C. 102(e) has not been withdrawn by the examiner, but it is not under review on appeal because it has not been presented for review in the appellants' brief.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief (i.e., Appendix I at page 7) is correct. Appendix II (page 10) contains proposed amendments that have not been entered after final rejection.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal:

2002/0083228

CHILOYAN et al.

6-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 15-18 and 20-23 stand finally rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2002/0083228 to Chiloyan et al. ("Chiloyan").

(10) Response to Argument

As an initial matter, the above ground(s) of rejection were set forth in the final Office action mailed on May 4, 2005 and are reproduced at page 8 of this examiner's answer.

Ground No. 1 (brief, page 3):

The entry of amendments after final rejection is not an appealable issue, as noted above. Still, it is noted that the advisory action mailed on August 19, 2005 clearly set forth a proper reason to deny entry of the after-final amendment. Appellants' argument does not divulge the fact that the after-final amendment, which proposed a scheme of "installing the acquired driver" on plural "devices" rather than on a single "device," would have considerably changed the scope of previously presented claims 24 and 26 such that further consideration and/or search would have been required.

Ground No. 2 (brief, page 4):

Appellants contend that Chiloyan does not disclose any association between the device identification numbers and a customer (brief, page 4, fifth paragraph).

However, the "association" is that Chiloyan determines at least two attributes of a particular customer, indeed based on device identification numbers. For example, with reference

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to FIG. 2, Chiloyan's device identification numbers are gathered in an enumeration step 62 (see, for example, paragraph [0036], lines 13-19). Based on these device identification numbers, Chiloyan determines at step 64 whether a device driver is already installed for that particular customer (see, for example, paragraph [0037], lines 1-8). Chiloyan also determines at step 80 whether a flag is set for that particular customer (see, for example, paragraph [0043], lines 10-12). These attributes—whether the device driver is installed and whether the flag is set—are attributes of a particular customer. In other words, Chiloyan determines, based on the device identification numbers, whether the device driver has been installed for the particular customer and whether the flag has been set for that particular customer. Accordingly, the device identification numbers clearly function in a way related to, connected to, or “associated with” the particular customer.

Appellants contend, “Chiloyan doesn't care which customer has the device or who is using it,” and further, “More importantly, Chiloyan has no way of knowing which devices are installed in a particular customer environment” (brief, page 4, last paragraph).

However, this is not relevant to the claim. Claim 15 plainly recites, “associating the identification numbers with the customer.” The identification numbers are assigned to the devices, as recited in claim 14. There is no language to imply that Chiloyan must distinguish among different customers or different customer environments. The examiner notes that, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellants further characterize what does not constitute associating a device ID with the customer (brief, page 5, first paragraph), and likewise contends, “Nowhere in [Chiloyan’s download] process is any association made between any kind of device ID and the customer,” and further, “Nor is any such association required to complete Chiloyan’s download procedure” (brief, page 5, second paragraph).

However, the “association” in Chiloyan is as reasoned above. Furthermore, it should be noted that whoever operates the computer 20 and the device 56 (FIG. 1) is inherently associated with that particular device and its identification numbers. Therefore, in this sense, Chiloyan indeed necessarily associates a particular device identification number with a particular customer or user. In other words, if Customer A uses the computer and the device, then the device identification numbers are associated with Customer A, and if Customer B uses the computer and the device, then the device identification numbers are associated with Customer B. Again, the plain language of the claims calls for nothing further than “associating the identification numbers with the customer.”

Ground No. 3 (brief, page 5):

Appellants contend that Chiloyan does not disclose storing the identification numbers and the associated configuration information in a first database on the database server and storing the associated device drivers in a second database on the database server (brief, page 5, last paragraph).

First, Appellants appear to acquiesce in the position that Chiloyan discloses storing the identification numbers and the associated configuration information in a database on the server and storing the associated device drivers on the same database server. Thus, Appellants’

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argument amounts to a contention that the “first database” and “second database” as recited in the claims are necessarily different or distinct, and that Chiloyan does not disclose necessarily different or distinct databases.

However, a broad and reasonable interpretation of the claims is that both the first and second databases read on Chiloyan’s teachings. Here, a “database” is considered a file, table or other repository in which information is stored at some location. It should be noted that the plain language of the claims does not exclude and/or preclude such an interpretation, and arguably, Chiloyan’s teachings still anticipate the claims: The repository or database that stores the identification numbers and the associated configuration information (see, for example, paragraph [0045], lines 1-23) is a “first database” on the server, and the repository or database that stores the associated device drivers (see, for example, paragraph [0041], lines 1-6) is a “second database” on the server. Moreover, in Chiloyan, the first and second sets of information are of course stored at different locations on the server, so that each set of information is properly accessible and retrievable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

The following ground(s) of rejection are applicable to the appealed claims (claims 15-18 and 20-23) and were set forth in the final Office action mailed on May 4, 2005:

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 14-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 2002/0083228 to Chiloyan et al. (“Chiloyan”).

With respect to claim 14 (new), Chiloyan discloses a method for facilitating device driver installation (see, for example, paragraph 0035, lines 1-3), comprising:

(a) assigning a discrete identification number to each of a plurality of devices installed in a customer environment (see, for example, paragraph 0036, lines 13-19, which shows enumerating an installed device for its discrete identification numbers);

(b) associating information for configuring a driver for each of the devices installed in the customer environment with the identification number for the device (see, for example, paragraph 0037, lines 1-3, which shows associating a network address with the identification numbers, and paragraph 0041, lines 1-6, which shows that the network address provides information for configuring a driver for the device); and

(c) storing the identification numbers and associated configuration information together at a location remote from the customer environment and accessible to the customer environment (see, for example, paragraph 0045, lines 1-23, which shows storing the identification numbers and associated configuration information together at a remote location that is accessible to the user or customer).

With respect to claim 15 (new), the rejection of claim 14 is incorporated, and Chiloyan further discloses associating the identification numbers with the customer (see, for example, paragraph 0043, lines 1-26, which shows associating the identification numbers with the user or customer to determine, for example, whether the device driver is already installed and whether the customer wishes to access additional information for the device).

With respect to claim 16 (new), the rejection of claim 15 is incorporated, and Chiloyan further discloses associating a device driver with each identification number and storing the associated device drivers together with the identification numbers at the remote location (see, for example, paragraph 0045, lines 1-23, which shows associating a network address with each identification number stored at the remote location, and paragraph 0041, lines 1-6, which shows that the network address is for the associated device driver stored at the remote location).

With respect to claim 17 (new), the rejection of claim 16 is incorporated, and Chiloyan further discloses the limitations wherein:

(a) storing the identification numbers and associated configuration information together at a location remote from the customer environment and accessible to the customer environment comprises storing the identification numbers and associated configuration information on a database server accessible to the customer environment through a web server (see, for example, paragraph 0045, lines 1-23, which shows that the identification numbers and associated configuration information are stored in a database on a server that is accessible to the user or customer through a Web site); and

(b) storing the associated device drivers together with the identification numbers at the remote location comprises storing the associated device drivers on the database server (see, for example, paragraph 0041, lines 1-6, which shows that the associated device drivers are also stored on the server).

With respect to claim 18 (new), the rejection of claim 17 is incorporated, and Chiloyan further discloses the limitations wherein:

(a) storing the identification numbers and associated configuration information on a database server accessible to the customer environment through a web server comprises storing the identification numbers and associated configuration information in a first database on the database server (see, for example, paragraph 0045, lines 1-23, which shows that a database on the server, i.e. a first database on the server, stores only the identification numbers and associated configuration information); and

(b) storing the associated device drivers together with the identification numbers at the remote location comprises storing the associated device drivers on the database server comprises storing the associated device drivers in a second database on the database server (see, for example, paragraph 0041, lines 1-6,

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which shows that the associated device drivers are also stored on the server, i.e. in a second database).

With respect to claims 19-23 (new), the claims recite a computer readable medium that corresponds to the method of claims 14-18, respectively (see the rejection of claims 14-18 above). Chiloyan further discloses a computer readable medium having instructions thereon for performing the recited method (see, for example, paragraph 0017, lines 1-5).

With respect to claim 24 (new), Chiloyan discloses a method for facilitating device driver installation (see, for example, paragraph 0035, lines 1-3), comprising:

- (a) associating a group of numbers each identifying a plurality of devices installed in a customer environment with the customer (see, for example, paragraph 0037, lines 1-8, which shows associating a group of numbers that identify installed devices with the host computer or customer to determine, for example, whether a device driver is already available);

- (b) acquiring the number identifying one of the plurality of devices installed in the customer environment (see, for example, paragraph 0036, lines 13-19, which shows enumerating an installed device for its identification numbers);

- (c) communicating the acquired identification number to a server at a location remote from the customer environment (see, for example, paragraph 0045, lines 1-23, which shows communicating the identification numbers to a server at a remote location);

- (d) the server acquiring a device driver associated with the identification number (see, for example, paragraph 0041, lines 1-6, which shows acquiring an associated device driver); and

- (e) installing the acquired driver on the device identified by the acquired identification number (see, for example, paragraph 0042, lines 1-11, which shows installing the driver).

With respect to claim 25 (new), the rejection of claim 24 is incorporated, and Chiloyan further discloses the limitation wherein the server acquiring a device driver associated with the identification number comprises the server accessing a database of device drivers and a database of information for configuring a driver for each of the devices installed in the customer environment (see, for example, paragraph 0045, lines 1-23, which shows accessing a database on the server for the device driver).

With respect to claims 26-27 (new), the claims recite a computer readable medium that corresponds to the method of claims 24-25, respectively (see the rejection of claims 24-25 above). Chiloyan further discloses a computer readable medium having instructions thereon for performing the recited method (see, for example, paragraph 0017, lines 1-5).

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael J. Yigdall
Examiner
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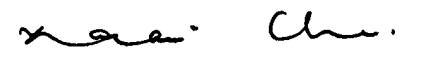
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